

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT DEREK LURCH, JR.,

Plaintiff,

22-cv-4055 (JGK)

- against -

ORDER

P.O. GILLIAN FRANCIS, ET AL.,

Defendants.


JOHN G. KOELTL, District Judge:

The plaintiff's application to appoint counsel is **denied without prejudice** for failure to make the required showing at this time. The Court of Appeals for the Second Circuit has articulated factors that should guide the Court's discretion to appoint counsel to represent an indigent civil litigant under 28 U.S.C. § 1915. See Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986); Jackson v. Moscicki, No. 99-cv-2427, 2000 WL 511642, at *4 (S.D.N.Y. Apr. 27, 2000). For the Court to order the appointment of counsel, the plaintiff must, as a threshold matter, demonstrate that the claim has substance or a likelihood of success on the merits. See Hodge, 802 F.2d at 60-61. Only then can the Court consider the other factors relevant to the determination of whether counsel should be appointed: the plaintiff's "ability to obtain representation independently," and the plaintiff's "ability to handle the case without assistance in the light of the required factual investigation, the

complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity." Cooper v. A. Sargenti Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989). At this point, the plaintiff has not made the required threshold showing. The plaintiff's application for the Court to appoint counsel is therefore **denied without prejudice**.

SO ORDERED.

Dated: New York, New York
September 7, 2023



John G. Koeltl
United States District Judge